APPENDIX A

STATE OF MICHIGAN

In the Circuit Court for the County of Wayne
in Chancery

Sidney M. Harvey, et al.,
Plaintiffs,
v.
Daniel Lewis and George Lewis, et al.,
Defendants.
No. 497-076

ORDER ALLOWING RECEIVER'S ACCOUNT AND PETITION FOR COMPENSATION: ORDER ALLOWING COMPENSATION TO RECEIVER'S COUNSEL: ORDER EMBODYING SETTLEMENT AS AGREED BY CONTESTING PARTIES

At a session of said Court held at the City-County Building in the City of Detroit, on March 5, 1963.

Present: Honorable Joseph G. Rashid, Circuit Judge.

In this cause after certain adjournments there came before the Court on February 25, 1963, various Petitions and Motions: Receiver's Account from inception of receivership to June 30, 1962, dated December 31, 1962; Receiver's Petition for Compensation, dated December 31, 1962; Petition of Receiver's Counsel for Compensation, dated December 29, 1962; Receiver's Petition for Order as to collection of indebtedness of Lewis Brothers, dated June 21, 1962;

Petition by Lewis Brothers for reduction and recomputation of indebtedness, dated December 26, 1962; Petition by Lewis Brothers for Order re assessment of costs against plaintiffs, dated January 26, 1963; Petition by Lewis Brothers for appointment of appraisers, dated January 26, 1963; Prayer by Constantine A. Tsangadas re assessment of costs against the plaintiffs, dated January 30, 1963; the said Petitions came before the Court upon said adjourned date after due notice;

The parties appearing were plaintiffs and their successors in interest, by Walter M. Nelson, Clarence T. Wilson and Earl Sullivan, their counsel; the Lewises and their successors in interest by Arthur M. Lang and Richard E. Manning, their counsel; Constantine A. Tsangadas, in pro per; the Receiver personally; and Stanley E. Beattie, Receiver's counsel and in pro per.

Thereby were represented all petitioning parties and the entire equity ownership of the receivership assets;

The Court on said February 25, 1963, as theretofore, received into Chambers the said parties for consideration of all the pending Petitions above referenced and of terms of possible settlement of the issues existing between the contesting parties above named; the parties came to an agreement resolving all outstanding issues as between them and thereafter in open court stated their agreement reached upon the record;

Now Therefore, pursuant to the agreement reached by the parties above named as to all outstanding issues, the Court orders that the rights of all parties above named, insofar as the following adjudications extend, are finally and conclusively determined as follows:

1.

That the Account of John R. Starrs, Receiver herein, for the period since commencement of his receivership to and including June 30, 1962, is allowed as stated; *provided*

that inadvertent omission of reference in said Account to Harris W. Wienner as ordinary creditor of Brookdale Cemetery Association is corrected and the said Harris W. Wienner is recognized, as heretofore by Order of Court he has been recognized, as claimant in the sum of $15,000.00;

2.

That the Petition of John R. Starrs for compensation for the period December 15, 1958 to and including (by oral amendment of Petition) February 25, 1963, is allowed in the sum of $60,000, to be paid when funds are available therefor in whole or in part, with interest on any sum unpaid as of January 1, 1964 to run from said date last mentioned at the rate of 5% per annum;

3.

That the Petition of Stanley E. Beattie, counsel for Receiver, for compensation of the services of himself and of his law associate, Thomas C. Mayer, for the period from December 10, 1959 to (by oral amendment of Petition) February 23, 1963, is allowed in the sum of $26,500 less a credit for sums paid on account thereof in the sum of $3,500, in the net sum of $23,000, to be paid when funds are available therefor in whole or in part, with interest on any sum unpaid as of January 1, 1964, to run from said date last mentioned at the rate of 5% per annum;

4.

That prayers pending for assessment of special and extraordinary costs as against plaintiffs, whether contained in the Petition of the Receiver's counsel for compensation, or in the Petition of defendants Lewis, or in the prayer of defendant Tsangadas, be and they are hereby dismissed with prejudice;

5.

That bills of costs proposed in the Supreme Court by the Receiver in causes numbered 48,011, 48,040, 48,041, 48,042, 48,164, 48,279, 48,332, 48,336, 48,376, 48,728, 49,055, 49,399, 49,400, bearing date December 21 1962, and proposed for settlement on December 31, 1962, shall be withdrawn and if the same have already been taxed shall be vacated by the Receiver, with prejudice;

6.

That the Receiver's Petition for collection of indebtedness from the defendants Lewis and for sale of the stock of defendants Lewis, shall be dismissed with prejudice and the claim filed by the Receiver in the Estate of Daniel Lewis in Probate Court for the County of Wayne, cause No. 472,886, shall be dismissed with prejudice;

7.

That the Petition of the defendants Lewis for a credit on indebtedness and for recomputation of indebtedness, shall be dismissed with prejudice, the same being now moot;

8.

That nothing in this Order Approving Settlement shall be construed as a realization by the Receiver of the amounts of debt heretofore claimed by the Receiver as against any party to this Order, it being hereby expressly determined that the provisions of this Order represent a compromise of the claims of the respective parties, which compromise has been realized and made possible by adjustment of the claims of ownership of the respective equity owners as hereinafter stated;

9.

That the Petition by the defendants Lewis for the appointment of appraisers of the real estate property embraced in this receivership, shall be dimissed with prejudice; *provided,* however, that any party of interest may subsequently petition this Court for appointment of appraisers if good cause be shown therefor;

10.

That the legal and equitable title to the land embraced within this receivership, as determined by Decree of the Supreme Court of Michigan dated December 8, 1959, cause 48,011, is in Brookdale Cemetery Association, a Michigan rural cemetery association, free of the claims of any of the parties hereto in said land, except that of John R. Starrs as Receiver of said Brookdale Cemetery Association;

11.

That the parties solely entitled to ultimate distribution of the avails of sale of assets of this receivership, after payment of expenses of administration of the Receivership, of taxes, and of common creditors, are herewith stated by identity and amount; $7,000, without interest, to plaintiff, Emma Moist, as a common subordinated creditor. And thereafter: 35% to plaintiffs or their successors in interest; 30% to defendants Lewis or their successors in interest; 35% to Constantine A. Tsangadas or his successors in interest; *provided,* that nothing herein contained shall affect or discharge the right of said Constantine A. Tsangadas to collection, as a common creditor, of the sum of $560.00 plus $8.00 costs awarded him as against Brookdale Cemetery Association in the Common Pleas Court for the City of Detroit, cause No. 2512448, said Judgment having been transcribed to Circuit Court of Wayne County, cause 48986;

12.

That this Order adjudicating the rights of the parties beneficially entitled to ultimate distribution is entered upon the consent of all of the parties entitled to ultimate distribution, to the end that each of said parties shall, as against the others of said parties, quietly enjoy and receive upon ultimate distribution, the stated percentages;

13.

That if there be conflict in this Order with any prior Order of this Court, the provisions hereof shall govern notwithstanding.

Joseph G. Rashid,
Circuit Judge.